

Herring v. U.S.
--- U.S. --- (2009)
Decided January 14, 2009

FACTS: On July 7, 2004, Investigator Anderson (Coffee County, Alabama, Sheriff's Department) learned that Herring was at the office to retrieve something from an impounded vehicle. Knowing that Herring was "no stranger to law enforcement," Anderson checked for warrants. There were none in Coffee County, so Pope, the clerk, checked with her counterpart in Dale County, the neighboring county. Morgan, the Dale clerk, reported an active FTA warrant. Pope relayed the information to Anderson, at the same time asking for a faxed copy of the warrant. Anderson and another deputy stopped Herring as he was leaving the lot and arrested him. Incident to the arrest, they searched and found methamphetamine and a pistol - Herring was a convicted felon.

However, it turned out that the warrant had been recalled some month's previously, and had simply not been removed from the computer system. But, by the time that was discovered, the incriminating evidence had already been located. Herring was indicted in federal court, and moved for suppression. The trial court, and ultimately the Eleventh Circuit, concluded that the Coffee County deputies were "entirely innocent of any wrongdoing or carelessness," so suppression was not appropriate.

Herring requested certiorari from the U.S. Supreme Court, which accepted the case.

ISSUE: Does the Fourth Amendment require that evidence found during a search incident to arrest be suppressed when the arresting officer conducted the arrest and search in sole reliance upon facially credible but erroneous information negligently provided by another law enforcement agent?

HOLDING: No

DISCUSSION: The Court began its opinion by noting that "[w]hen a probable-cause determination was based on reasonable but mistaken assumptions, the person subjected to a search or seizure has not necessarily been the victim of a constitutional violation." In this case, the "Coffee County officers did nothing improper," and in fact, "the error was noticed so quickly because Coffee County requested a faxed confirmation of the warrant." Even though the error was likely negligent on the part of another government agency, Dale County, the Court did not find it reckless or deliberate. The Coffee County deputies acted in "good faith" reliance on the representations of another government official.¹

The Court stated that "[t]o trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system." The rule is intended to "deter deliberate, reckless, or grossly negligent conduct, or in some instances recurring or systemic negligence."

¹ See U.S. v. Leon, 468 U.S. 897 (1984); Massachusetts v. Sheppard, 468 U.S. 981 (1984)

The Court found no indication that the error that occurred was anything more than a simple mistake on the part of an unidentified Dale County clerk. Even if agreed to be negligence, that negligence was not so egregious as to trigger the exclusionary rule.

Herring's conviction was upheld.

FULL TEXT OF OPINION: <http://www.supremecourtus.gov/opinions/08pdf/07-513.pdf>